

**BOARD OF HEALTH AND ENVIRONMENTAL CONTROL**  
**SUMMARY SHEET**  
March 10, 2011

[x] ACTION/DECISION  
[ ] INFORMATION

- I. TITLE: Public Hearing before the Board and Consideration for Final Approval  
Proposed Amendment of R.61-79, Hazardous Waste Management Regulations  
Requires Legislative Review  
State Register Document No. 4174
- II. SUBJECT: Request for Finding of Need and Reasonableness Pursuant to S.C. Code Section 1-23-111

III. FACTS:

1. The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 260 through 266, 268, 270, and 273 during the calendar year. The South Carolina Department of Health and Environmental Control (Department) proposes to adopt one Final Rule that was published in the period between July 1, 2008 and June 30, 2009, entitled: Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities (Academic Laboratories Generator Standards Rule). This rule was published by the EPA on December 1, 2008 at 73 FR 72912. The Department has proposed to amend R.61-79 to maintain conformity with federal regulations by adopting the Academic Laboratories Generator Standards Rule.

2. The Department has proposed to establish new regulations for transfer facilities where manifested shipments of hazardous waste in containers are stored for 10 days or less. The transfer Facility Rule being developed would establish requirements for storage of hazardous waste at transfer facilities which would include notification and annual reporting, location standards, financial assurance, closure contingency and emergency plans. The Department's intention was to clarify that transfer facilities that stored waste greater than 10 days require a storage permit.

3. The EPA discontinued the National Environmental Performance Track Program (PT) in a Federal Register on May 14, 2009 at 74 FR 22741. The Department has proposed to amend R.61-79 to remove all references throughout the regulations to the EPA's PT Program, as well as the analogous state program, the South Carolina Environmental Excellence Program (SCEEP). These Programs provide regulatory incentives to facilities with good compliance records that are less stringent than Federal standards, such as fewer inspections, reduced paper work, and longer storage times. References to the SCEEP will also be removed because the State cannot be less stringent than Federal regulations. The SCEEP will continue as a recognition program but can no longer provide reduced regulatory incentives.

4. The Department published a Notice of Drafting for the proposed amendments in the State Register on September 24, 2010, and also in the Department's monthly Regulation Development Update and on the Bureau of Land and Waste Management Public Notices internet site.

5. The proposed regulations were internally reviewed by appropriate staff prior to seeking Board initial approval to public notice them.
6. On December 9, 2010, the Board granted staff initial approval to public notice the proposed amendments of R.61-79.
7. A Notice of Proposed Regulations and Opportunity for Public Comment was published in the State Register on December 24, 2010, as Document 4174. Notice was also published on the Department's websites. Document 4174 gave notice that the interested public could comment on the proposed regulations by submitting oral or written comments at a staff conducted informational forum on January 25, 2011, and/or by submitting written comments during a public comment period by January 25, 2011, and/or by attending a public hearing scheduled before the Department's Board on March 10, 2011.
8. The Department held a Staff Informational Forum on January 25, 2011. Ten people attended the meeting, representing hazardous waste TSDFs, hazardous waste transporters, the Chamber of Commerce, Nexsen Pruet law firm, and Benedict College. All attendees representing the hazardous waste industry were strongly opposed to the transfer facility regulations. The comments included concerns that the regulations were significantly more stringent than applicable Federal regulations, that the regulations would increase costs associated with the operations of transfer facilities and potentially drive some companies out of business, and that the proposed regulations were as burdensome as a permitting process without resulting in the issuance of a hazardous waste permit.
9. A request was made by attendees to extend the date for public comments to be submitted until close of business, Friday, January 28, 2011. This request was granted.
10. While the Department believes that there is a need for oversight of transfer facilities that store hazardous waste for ten days or less, based on the comments received opposing these proposed regulations, the Department has decided to withdraw the transfer facility rule at this time. Further work is needed on reducing the administrative burden and costs associated with regulating ten day or less transfer facilities.
11. The Academic Laboratory Rule in Item 1 above received all positive written comments with one verbal objection from an attendee at the Staff Informational Forum. The objection was not specific. The written comments represent a large number of academic institutions and urged the Department to move forward to adopt this regulation. The Department has decided to request that the Board adopt this rule which would bring state regulations into line with EPA and the Code of Federal Regulations.
12. There were no comments received concerning the withdrawal of the EPA's Performance Track or the State's program, the SCEEP.
13. A Statement of Need and Reasonableness and Rationale is submitted as Attachment A; a Table of Revisions is submitted as Attachment B; the Text of the provisions to be revised is submitted as Attachment C; an excerpt of the *State Register* Notice of Proposed Regulations is submitted as Attachment D; the *State Register* Notice of Drafting published September 24, 2010 is submitted as Attachment E, and comments received are submitted as Attachment F.
14. The Department has responded to the public comments and reminded commentors of the date and time of the public hearing before the Board.

15. Department staff is requesting the Board to conduct a public hearing on the proposed revisions and approve them for submission to the State legislature for review.

#### IV. ANALYSIS:

Adoption of the revised proposed amendments will reflect modified federal requirements in the Academic Laboratories Generator Standards Rule and remove all references to the National Environmental Performance Track Program and South Carolina Environmental Excellence Program. See Attachment A, Statements of Need and Reasonableness and Rationale, for details.

#### V. RECOMMENDATION:

The Department recommends that based upon the public hearing and attached information, that the Board find for the need and reasonableness of the proposed regulation and approve it for submission to the legislature for review.

Submitted by:

Approved by:

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Daphne G. Neel  
Bureau Chief  
Bureau of Land and Waste Management

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Robert W. King, Jr., P.E.  
Deputy Commissioner  
Environmental Quality Control

Attachments: A. Statements of Need and Reasonableness and Rationale  
B. Table of Revisions to R.61-79  
C. Text of Proposed Amendments to R.61-79  
D. *State Register* Notice of Proposed Regulations Published December 24, 2010 Excerpt  
E. *State Register* Notice of Drafting, published May 28, 2010  
F. Comment Document

ATTACHMENT A  
**STATEMENT OF NEED AND REASONABLENESS AND RATIONALE**  
Proposed Amendment of R.61-79  
Hazardous Waste Management  
March 10, 2011

This Statement of Need and Reasonableness complies with SC Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11)

**DESCRIPTION OF REGULATION:** Proposed amendment of R.61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 261 through 270, between July 1, 2008 and June 30, 2009. The Department also proposes to remove all references to the National Environmental Performance Track Program (PT) and the analogous state program, the South Carolina Environmental Excellence Program (SCEEP).

Legal Authority: South Carolina Hazardous Waste Management Act, 1976 S. C. Code Ann. Section 44-56-10, *et seq.*

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control, approval by the South Carolina General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided in hard copy and electronic formats to the community at cost through the Department's Freedom of Information Office and at the Bureau web site.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION  
BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

1. The Department has chosen to adopt the optional provision for 262 Subpart K, the Academic Laboratory Rule, to provide alternate generator standards for managing hazardous waste generated in academic laboratories. This rule addresses special needs of “eligible academic entities”. Eligible academic entities include teaching and research labs, colleges and universities and non-profit research institutes affiliated with a college or university. The labs can choose to remain under standard RCRA rules or to be regulated under the optional Subpart K rules. Subpart K establishes specific criteria for best management practices that are compatible to academic labs while being protective of the environment and lab personnel. Some of the unique problems faced by academic labs include student workers who are transient to the lab, quantities of undetermined “unwanted wastes” and the fear that clean ups of labs would change the generator status of the facility managing a lab clean up with the collection of “unwanted waste”. The Department has received comments in support of adopting this rule from eligible academic entities. (see Attachment F)

2. The EPA discontinued the National Environmental Performance Track Program (PT) in a Federal Register on May 14, 2009 at 74 FR 22741. The state had a program, the SC Environmental Excellence Program. The benefits of becoming eligible for these two programs was reduced inspections and longer storage times. State regulation cannot be less stringent than federal provisions. Therefore, the Department is proposing to remove all references to the national program since it is no longer part of the federal program. The state program can no longer provide regulatory incentives but can continue as a recognition program separate from the regulation.

## DETERMINATION OF COSTS AND BENEFITS:

### 1. Academic Laboratory Rule

(a) Adoption of the Academic Laboratory Rule would have minimal impact with regards to costs to the State. Academic laboratories that choose to be regulated under this Rule will be subject to approximately the same level of oversight as those that choose not to be regulated under this Rule.

(b) EPA estimates that Large Quantity Generators (LQG) in states that adopt this rule could see an average annual savings of \$12,200 per LQG opting into this rule; Small Quantity Generators (SQG) could see an average annual savings of \$1,000 per year and Conditionally Exempt Small Quantity Generators (CESQG) could see an increase so it is expected that CESQGs would not choose to be regulated under Subpart K. Overall, the average annual aggregate net cost savings for eligible academic entities operating under Subpart K are estimated at approximately \$396,000 or \$3,500 per entity. In addition, labs will benefit because they will be able to maintain their RCRA generator status rather than episodically increasing their generator status by generating lab clean outs. This will encourage labs to do regular cleanouts. The structured nature of the lab management plan (LMP) is expected to result in safer lab practices, minimize exposure to people and the environment, increase proper hazardous waste management and improve waste handling techniques and waste minimization.

### 2. Performance Track Rule

The EPA's Performance Track program has been discontinued by the EPA pursuant to the Federal Register notice on May 14, 2009 at 74 FR 22741. No costs are incurred by the state or regulated community.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

## EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

1. The overall effects of the Academic Laboratories Generator Standards Rule are expected to be beneficial to the public health and environment by providing flexibility to academic labs while still meeting RCRA hazardous waste management standards. Each lab has to develop and maintain a Laboratory Management Plan (LMP). The structured nature of the LMP is expected to result in safer lab practices and increased awareness of hazardous waste management. The LMP requires training for students as well as professionals who handle hazardous waste in the labs. The LMP will minimize exposure to humans and the environment to hazardous wastes. Ultimately, LMPs are expected to improve the way eligible academic entities coordinate and integrate their hazardous waste management activities and enhance awareness about proper lab waste handling techniques. The rule includes incentives to encourage more frequent lab clean-outs of unwanted and unused reagents, reducing the potential for accidental releases of these chemicals into the environment. The EPA also anticipates non-quantified economic gains through improved hazardous waste management practices, waste minimization and waste coordination activities.

2. The National Environmental Performance Track Program (PT) has been cancelled by the EPA and the State program can only continue as a recognition program because providing regulatory incentives would make the State less stringent than federal regulation. However, the recognition aspect of the program would serve to promote sound environmental practices, encouraging protection of the environment.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

1. Academic laboratories would not have flexible options for regulation of lab waste and would have to be regulated by standard RCRA generator requirements. The accumulation of mixed waste that is not adequately characterized and handled properly poses a threat to the environment and the state.
2. The National Environmental Performance Track Program rule has been withdrawn and the detrimental effect of not removing it from regulation would be the confusion of the existence of a regulation that is no longer in effect.

#### STATEMENT OF RATIONALE:

1. The Department has decided to adopt the Academic Laboratories rule to provide flexibility to Academic labs and other eligible entities that have unique problems that make it difficult to meet the standard RCRA requirements for generators. This rule provides flexibility to these eligible academic entities while being protective of the environment and the population. Conditionally exempt small quantity generators that might not benefit from the alternative regulation can choose to be regulated under standard RCRA generator standards.
2. The National Environmental Performance Track Program Rule is being withdrawn because the program was terminated by the US EPA and needs to be removed from state regulation. All references to the State analogous program, the South Carolina Environmental Excellence Program must also be removed from state regulation since the state cannot be less stringent than federal regulation and thus, can no longer provide regulatory incentives.

See Statement of Need and Reasonableness above.

ATTACHMENT B  
Table of Revisions to R.61-79

**Discussion of Proposed Revisions:**

In addition to this section-by-section discussion of the proposed regulations, see also the Statements of Need and Reasonableness and Rationale herein.

**Section Citation and Explanation of change**

**1. Academic Lab Rule**

**261.5(c)(6)**

Revise to remove the period at the end of the paragraph; add a semicolon followed by the word “or”

**261.5(c)(7)**

Add new paragraph discussing the term “eligible academic entity”.

**Add 261.10(j) and [Reserved] to maintain correct outline.**

**Add 262.10(k) and [Reserved] to maintain correct outline.**

**262.10(l)**

Add new paragraph at (l) to establish the optional nature of Subpart K for an eligible academic entity.

**262.10(l)(1)**

Add subitem to list 262.11 and 262.34(c) exemptions under Subpart K for large and small quantity generators.

**262.10(l)(2)**

Add subitem to establish that conditionally exempt small quantity generators are not subject to 261.5(b).

**Add 262 SUBPART J heading and reserve to maintain correct outline.**

**262 SUBPART K.**

Add new Subpart K to Part 262 entitled: Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities.

**Add 262.200. Definitions**

Add 262.200. and title: Definitions - to indicate the following are definitions and then add the following definitions alphabetical order:

“Central accumulation area”

“College/University”

“Eligible academic entity”

“Formal written affiliation agreement”

“Laboratory”

“Laboratory clean-out”

“Laboratory worker”

“Non-profit research institute”

“Reactive acutely hazardous unwanted material”

“Teaching hospital”

“Trained professional”

“Unwanted material”

“Working container”

#### **262.201**

Add new heading: “262.201. Applicability of this subpart.”

#### **262.201(a)**

This part defines alternative requirements for large and small quantity generators of eligible academic laboratories.

#### **262.201(b)**

Added to define alternative requirements for conditionally exempt small quantity generators of eligible academic laboratories.

#### **262.202**

Add new heading: “262.202. This subpart is optional.” indicating the optional nature of this part.

#### **262.202(a)**

Defines the optional nature of this section for large and small quantity generators.

#### **262.202(b)**

Defines the optional nature of this section for conditionally exempt small quantity generators.

#### **262.203 heading**

Add heading: “262.203. How an eligible academic entity indicates it will be subject to the requirements of this subpart”

#### **262.203(a)**

Add section to tell eligible academic entities specific details in how to apply for Subpart K requirements.

#### **262.203(b)**

Add introductory paragraph with instructions for submitting the Notification and Reporting Form.

#### **262.203(b)(1) - (11)**

Instructions for filling out the Notification and Reporting Form and reason for submitting the form.

#### **262.203(c)**



Add section for records retention requirements

**262.203(d)**

This section defines teaching hospital requirements if not owned by college or university to retain formal written agreements to participate in alternate lab rule.

**262.203(e)**

This section defines requirements on how Non-profit research institutes, if not owned by college or university, can retain formal written agreements to participate in alternate lab rule.

**262.204(a)**

This section provides instructions on how eligible academic entities can choose to opt out of subpart K and revert to the requirements of 262.11 and 262.34(c)

**262.204(b) and (b)(1) through (b)(11)**

Provides instructions for filling out and submitting the Notification and Reporting Form.

**262.204(c)**

Add to establish record retention requirements for withdrawing from alternate Subpart K requirements.

**262.205**

Add heading: “262.205. Summary of the requirements of this subpart.” and add an introductory paragraph is added to establish requirements of this subpart.

**262.206**

Add heading: “262.206. Labeling and management standards for containers of unwanted material in the laboratory.” and add an introductory paragraph for labeling and management of unwanted materials in labs.

**262.206(a) and subsections(a)(1), (a)(1)(i), (a)(1)(ii), (a)(1)(ii)(A)&(B), (a)(2) and subsections (a)(2)(i), (a)(2)(ii), and (a)(2)(ii)(A) - (C)**

Add instructions for container labeling of management of unwanted material in labs.

**262.206(b) introductory paragraph, (b)(1)-(3), (b)(3)(i)-(iii), and (b)(3)(iii)(A)&(B)**

Add to provide instructions for management of containers in the Laboratory

**262.207 heading, introductory paragraph, (a), (b), and (b)(1)-(5)**

Add heading: “262.207. Training.” and add instructions on providing training to all individuals working in a laboratory at the eligible academic labs.

**262.207(c) introductory paragraph, (c), and (c)(1)-(4)**

Add to provide instructions for documenting training for large quantity generators in an eligible academic entity.

**262.207(d) and (d)(1)-(2)**

Defines the requirements of a trained professional in handling unwanted material and hazardous waste including a hazardous waste determination.

**262.208 heading, 208(a), (a)(1)-(2), (b)-(d), (d)(1), (d)(1)(i)-(ii), (d)(2), (d)(2)(i)-(ii)**

Add heading: “262.208. Removing containers of unwanted material from the laboratory.” Provide instructions for removing containers of unwanted material from labs, schedules for removals and how the

schedule must be specified in the Lab Management Plan as well as volume and time limits including reactive acutely hazardous unwanted material and how it should be handled.

**262.209 heading, 209(a) and (a)(1)-(3)**

Add heading: “262.209. Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.” Provide instructions on where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the lab.

**262.209(b)**

Add to instruct conditionally exempt small quantity generators to ensure that a trained professional makes a hazardous waste determination of unwanted material in the lab prior to the removal of the unwanted material.

**262.210 heading, introductory paragraph, (a)-(b), and (b)(1)-(3)**

Add heading: “262.210. Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.” Provide the instructions for making a waste determination by a trained professional before the unwanted material is removed from the lab, the labeling of hazardous waste on the container label as well as the waste codes associated with the container and dates, account for the number of hazardous waste containers for determination of the eligible academic entity’s generator status.

**262.210(c)**

Add requirement that a trained professional must accompany the waste to accumulation areas or permitted treatment, storage or disposal facilities.

**262.210(d), (d)(1)-(2)**

Provide instructions to large and small quantity generators as well as conditionally exempt small quantity generators when hazardous waste is removed from the laboratory.

**262.210(e)**

Instructs that if unwanted material is determined to be a hazardous waste, it is subject to all hazardous waste regulations once it is removed from the lab.

**262.211 heading, introductory paragraph, 211(a)-(d)**

Add heading: “262.211. Making the hazardous waste determination at an on-site central accumulation area.” Provide instructions for unwanted material waste determination by a trained professional and how this material must be removed and taken to an on-site central accumulation area where it becomes subject to generator accumulation regulations.

**262.211(e), (e)(1)-(4)**

Instructions, once unwanted material is determined to be a hazardous waste, in terms of labeling, time frames for on-site accumulation areas and counting the hazardous waste to determine the eligible academic entity's generator status.

**262.212 heading, introductory paragraph, 212(a)-(d)**

Add heading: “262.212. Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.” Provide instructions for making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility if an eligible academic entity makes the hazardous waste determination, defines the role of a trained professional in

making the waste determination as well as the requirements for transferring the unwanted material from the labs and the time frames in which this must be done.

**262.212(e), (e)(1)-(4)**

Instructs handling, labeling and accounting for the volume of waste once it has been determined hazardous waste to determine the eligible academic entity's generator status within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility.

**262.213 heading, (a), and (a)(1)-(4)**

Add heading: “262.213. Laboratory clean-outs.” Defines what constitutes an annual laboratory clean out and explains how the eligible academic entities Subpart K lab requirements differ from standard RCRA lab requirements in terms of storage and time frames for site accumulation and determination of generator status as well as required record keeping.

**262.213(b), (b)(1)-(2)**

Sets out requirements for all other lab clean-outs done within the 12 month period in addition to the allowed one time cleanout.

**262.214 heading, introductory paragraph, 214(a)-(d)**

Add heading: “262.214. Laboratory management plan.” Explains requirements for a written Laboratory Management Plan consisting of two parts and nine elements to meet requirements for best management practices including labeling procedures, consistent defining of “unwanted material” or similar term, which set of rules the lab will meet for managing and removing hazardous waste or unwanted material, training and all necessary details for meeting requirements of either subpart K or the standard lab requirements under RCRA, record keeping and labeling.

**262.215 heading and (a)-(b)**

Add heading: “262.215. Unwanted material that is not solid or hazardous Waste.” Describes how a lab is to manage unwanted material that is not solid or hazardous waste.

**262.216 heading, introductory paragraph and 216(a) & (b)**

Add heading: “262.216. Non-laboratory hazardous waste generated at an eligible academic entity.” Add introductory paragraph and 216(a) & (b) to define requirements for non-laboratory hazardous waste generated at an eligible academic entity.

## **2. Performance Track**

This section removes all references to the federal Environmental Performance Track program and the South Carolina Environmental Excellence Program because the EPA discontinued the federal program in a Federal Register Notice on May 14, 2009 at 74 FR 22741. The South Carolina Environmental Excellence Program references must also be removed because the State cannot provide regulatory incentives because it would make South Carolina regulation less stringent than federal regulation.

### **260.10 Definitions**

Remove the following definition: “Performance Track and/or South Carolina Environmental Excellence Program member facility”

**262.34(j)**

Remove all of 262.34(j) including (j)(1)-(9) and the subparts therein and mark [Reserved].

**262.34(k)&(l)**

Remove all of both sections and mark [Reserved].

**264.15(b)(4)**

Remove the reference to the Performance Track and/or South Carolina Environmental Excellence Program.

**264.15(b)(5), and (b)(5)(i)-(iii)**

Remove all of the listed sections.

**264.174**

Remove the exceptions for the Performance Track and/or South Carolina Environmental Excellence Program.

**264.195(e)**

Remove all of 264.195(e) relating to the Performance Track and/or South Carolina Environmental Excellence Program.

**264.1101(c)(4)**

Remove exception and reference to the Performance Track and/or South Carolina Environmental Excellence Program.

**265.15(b)(4) Remove exception for the Performance Track and/or South Carolina Environmental Excellence Program.**

**265.15(b)(5) and (5)(i)-(iii)**

Remove all sections discussing rules of the Performance Track and/or South Carolina Environmental Excellence Program.

**265.174**

Remove exception for the Performance Track and/or South Carolina Environmental Excellence Program.

**265.195(d)**

Remove all of the section which references the Performance Track and/or South Carolina Environmental Excellence Program.

**265.201(e)**

Remove all of the section which references the Performance Track and/or South Carolina Environmental Excellence Program.

**265.1101(c)(4)**

Remove exceptions listed for the Performance Track and/or South Carolina Environmental Excellence Program.

ATTACHMENT C  
TEXT OF PROPOSED AMENDMENTS  
R.61-79, Hazardous Waste Management  
March 10, 2011

**Text of Proposed Amendment of R.61-79 for Public Comment:**

The following sections have been added, deleted, or revised. All other sections of R.61-79 will remain. Deleted text is indicated by ~~strikeout~~; new text is indicated by underlining.

**1. ACADEMIC LABS:**

**261.5(c)(6) remove period at the end of paragraph and add a semicolon followed by the word “or” to read:**

261.5(c)(6) Is universal waste managed under R.61-79.261.9 and R. 61-79.273-; or

**Add 261.5(c)(7) to read:**

261.5(c)(7) Is a hazardous waste that is an unused commercial chemical product (listed in part 261, subpart D or exhibiting one or more characteristics in part 261, subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to 262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in 262.200 of Part 262.

**Add 262.10(j) and reserve to read:**

262.10(j) [Reserved]

**Add 262.10(k) and reserve to read:**

262.10(k) [Reserved]

**Add 262.10(l) to include subitems 262.10(l)(1) and 262.10(l)(2) to read:**

262.10(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Subpart K of this part are not subject to (for purposes of this paragraph, the terms “laboratory” and “eligible academic entity” shall have the meaning as defined in 262.200 of Subpart K of this part.):

262.10(l)(1) the requirements of 262.11 or 262.34(c), for large quantity generators and small quantity generators, except as provided in Subpart K, and

262.10(l)(2) the conditions of 261.5(b), for conditionally exempt small quantity generators, except as provided in Subpart K.

**Add 262 Subpart J and reserve after Subpart I at 262.90 to read:**

SUBPART J [Reserved]

**Add new Subpart K to Part 262 to read:**

SUBPART K - Alternative Requirements for Hazardous Waste Determination and Accumulation of  
Unwanted Material for Laboratories Owned by Eligible Academic Entities

**262.200. Definitions**

“Central accumulation area” means an on-site hazardous waste accumulation area subject to either 262.34(a) of this part (large quantity generators); or 262.34(d)-(f) of this part (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this subpart must also comply with 262.211 when accumulating unwanted material and/or hazardous waste.

“College/University” means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education

“Eligible academic entity” means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

“Formal written affiliation agreement” for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by 260.10, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A formal written affiliation agreement for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

“Laboratory” means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

“Laboratory clean-out” means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by 262.208 does not qualify as a laboratory clean-out.

“Laboratory worker” means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

“Non-profit research institute” means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

“Reactive acutely hazardous unwanted material” means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 261.33(e) for reactivity.

“Teaching hospital” means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

“Trained professional” means a person who has completed the applicable RCRA training requirements of 265.16 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with 262.34(d)(5)(iii) for small quantity generators and conditionally exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

“Unwanted material” means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to 261.2, or a hazardous waste pursuant to 261.3. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by 262.206(a)(1)(i), the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under this subpart.

“Working container” means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

#### **262.201. Applicability of this subpart.**

262.201(a) Large quantity generators and small quantity generators This subpart provides alternative requirements to the requirements in 262.11 and 262.34(c) for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of 262.203.

262.201(b) Conditionally exempt small quantity generators. This subpart provides alternative requirements to the conditional exemption in 261.5(b) for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of 262.203.

#### **262.202. This subpart is optional.**

262.202(a) Large quantity generators and small quantity generators: Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the requirements of 262.11 and 262.34(c).

262.202(b) Conditionally exempt small quantity generators. Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the conditional exemption of 261.5(b).

#### **262.203. How an eligible academic entity indicates it will be subject to the requirements of this subpart.**

262.203(a) An eligible academic entity must notify the Department in writing, using Department's Notification and Reporting Form (DHEC Form 2701).

262.203(b) When submitting the Notification and Reporting Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

262.203(b)(1) Reason for Submittal.

262.203(b)(2) Site EPA Identification Number (except for conditionally exempt small quantity generators).

262.203(b)(3) Site Name.

262.203(b)(4) Site Location Information.

262.203(b)(5) Site Land Type.

262.203(b)(6) North American Industry Classification System (NAICS) Code(s) for the Site.

262.203(b)(7) Site Mailing Address.

262.203(b)(8) Site Contact Person.

262.203(b)(9) Operator and Legal Owner of the Site.

262.203(b)(10) Type of Regulated Waste Activity.

262.203(b)(11) Certification.

262.203(c) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this subpart.

262.203(d) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this subpart.

262.203(e) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this subpart.

**262.204. How an eligible academic entity indicates it will withdraw from the requirements of this subpart.**

262.204(a) An eligible academic entity must notify the Department in writing, using the Department's Notification and Reporting Form (DHEC Form 2701), that it is electing to no longer be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of 262.11 and 262.34(c) for small quantity generators and large quantity generators. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA identification number must notify that it is withdrawing from the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in



261.5(b). An eligible academic entity must submit a separate Notification and Reporting Form for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is withdrawing from the requirements of the subpart and must submit the Notification and Reporting Form before it begins operating under the requirements of 262.11 and 262.34(c) for small quantity generators and large quantity generators, or 261.5(b) for conditionally exempt small quantity generators.

262.204(b) When submitting the Notification and Reporting Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

262.204(b)(1) Reason for Submittal.

262.204(b)(2) Site EPA Identification Number (except for conditionally exempt small quantity generators).

262.204(b)(3) Site Name.

262.204(b)(4) Site Location Information.

262.204(b)(5) Site Land Type.

262.204(b)(6) North American Industry Classification System (NAICS) Code(s) for the Site.

262.204(b)(7) Site Mailing Address.

262.204(b)(8) Site Contact Person.

262.204(b)(9) Operator and Legal Owner of the Site.

262.204(b)(10) Type of Regulated Waste Activity.

262.204(b)(11) Certification.

262.204(c) An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

#### **262.205. Summary of the requirements of this subpart.**

An eligible academic entity that chooses to be subject to this subpart is not required to have interim status or a RCRA Part B permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this subpart and the eligible academic entity has a Laboratory Management Plan (LMP) in accordance with 262.214 that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this subpart.

#### **262.206. Labeling and Management Standards for Containers of Unwanted Material in the Laboratory.**

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this section.

262.206(a) Labeling: Label unwanted material as follows:

262.206(a)(1) The following information must be affixed or attached to the container:

262.206(a)(1)(i) The words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan, and

262.206(a)(1)(ii) - Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

262.206(a)(1)(ii)(A) The name of the chemical(s)

262.206(a)(1)(ii)(B) The type or class of chemical, such as organic solvents or halogenated organic solvents

262.206(a)(2) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

262.206(a)(2)(i) The date that the unwanted material first began accumulating in the container, and

262.206(a)(2)(ii) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 262.11. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

262.206(a)(2)(ii)(A) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction,

262.206(a)(2)(ii)(B) Whether the unwanted material has been used or is unused,

262.206(a)(2)(ii)(C) description of the manner in which the chemical was produced or processed, if applicable.

262.206(b) An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

262.206(b)(1) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

262.206(b)(2) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired, and

262.206(b)(3) Containers must be kept closed at all times, except:

262.206(b)(3)(i) When adding, removing or consolidating unwanted material, or

262.206(b)(3)(ii) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed, or

262.206(b)(3)(iii) When venting of a container is necessary

262.206(b)(3)(iii)(A) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

262.206(b)(3)(iii)(B) To prevent dangerous situations, such as build-up of extreme pressure.

## **262.207. Training**

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

262.207(a) Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this subpart and can implement them.

262.207(b) An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

262.207(b)(1) Instruction by the professor or laboratory manager before or during an experiment; or

262.207(b)(2) Formal classroom training; or

262.207(b)(3) Electronic/written training; or

262.207(b)(4) On-the-job training; or

262.207(b)(5) Written or oral exams.

262.207(c) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in 265.16(e) demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

262.207(c)(1) Sign-in/attendance sheet(s) for training session(s); or

262.207(c)(2) Syllabus for training session; or

262.207(c)(3) Certificate of training completion; or

262.207(c)(4) Test results.

262.207(d) A trained professional must:

262.207(d)(1) - accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory, and

262.207(d)(2) make the hazardous waste determination, pursuant to 262.11, for unwanted material.

**262.208. Removing containers of unwanted material from the laboratory.**

262.208(a) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

262.208(a)(1) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 6 months; or

262.208(a)(2) Remove containers of unwanted material from each laboratory within 6 months of each container's accumulation start date.

262.208(b) The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with paragraph (a)(1) or (a)(2) of this section for the regular removal of unwanted material from its laboratories.

262.208(c) The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with paragraph (a)(1) or (a)(2) of this section and develop a schedule for regular removals of unwanted material from its laboratories.

262.208(d) Removing containers of unwanted material when volumes are exceeded.

262.208(d)(1) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

262.208(d)(1)(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons is exceeded; and

262.208(d)(1)(ii) Are removed from the laboratory within 10 calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

262.208(d)(2) If a laboratory accumulates more than 1 quart of reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

262.208(d)(2)(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 1 quart is exceeded; and

262.208(d)(2)(ii) Are removed from the laboratory within 10 calendar days of the date that 1 quart was exceeded, or at the next regularly scheduled removal, whichever comes first.

**262.209. Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.**

262.209(a) Large quantity generators and small quantity generators - an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to 262.11, for unwanted material in any of the following areas:

262.209(a)(1) In the laboratory before the unwanted material is removed from the laboratory, in accordance with 262.210;

262.209(a)(2) Within 4 calendar days of arriving at an on-site central accumulation area, in accordance with 262.211; and within 4 calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with 262.212.

262.209(a)(3) Within 4 calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with 262.212

262.209(b) Conditionally exempt small quantity generators – an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to 262.11, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with 262.210.

**262.210. Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.**

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material in the laboratory, it must comply with the following:

262.210(a) A trained professional must make the hazardous waste determination, pursuant to 262.11, before the unwanted material is removed from the laboratory.

262.210(b) If an unwanted material is a hazardous waste, the eligible academic entity must:

262.210(b)(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

262.210(b)(2) Write the appropriate hazardous waste codes(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

262.210(b)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d), in the calendar month that the hazardous waste determination was made.

262.210(c) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage or disposal facility.

262.210(d) When hazardous waste is removed from the laboratory.

262.210(d)(1) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status or permitted treatment, storage or disposal facility, or transported off-site.

262.210(d)(2) Conditionally exempt small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in 261.5(f)(3) for acute hazardous waste, or 261.5(g)(3) for hazardous waste

262.210(e) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

#### **262.211. Making the hazardous waste determination at an on-site central accumulation area.**

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material at an on-site central accumulation area, it must comply with the following:

262.211(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

262.211(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area

262.211(c) The unwanted material becomes subject to the generator accumulation regulations of 262.34(a) for large quantity generators or 262.34(d)-(f) for small quantity generators as soon as it arrives in the central accumulation area, except for the “hazardous waste” labeling requirements of 262.34(a)(3)

262.211(d) A trained professional must determine, pursuant to 262.11, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials’ arrival at the on-site central accumulation area.

262.211(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

262.211(e)(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, within 4 calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area, and

262.211(e)(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

262.211(e)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d) in the calendar month that the hazardous waste determination was made, and

262.211(e)(4) Manage the hazardous waste according to all applicable hazardous waste regulations.

#### **262.212. Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.**

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it must comply with the following:

262.212(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility.

262.212(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage or disposal facility.

262.212(c) The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

262.212(d) A trained professional must determine, pursuant to 262.11, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

262.212(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

262.212(e)(1) Write the words "hazardous waste" on the container label that is affixed or attached to the container (or on the label that is affixed or attached to the container, if that is preferred) within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility, and

262.212(e)(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site, and

262.212(e)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d) in the calendar month that the hazardous waste determination was made, and

262.212(e)(4) Manage the hazardous waste according to all applicable hazardous waste regulations

### **262.213. Laboratory Clean-outs.**

262.213(a) One time per 12 month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subpart, except that:

262.213(a)(1) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by 262.208. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

262.213(a)(2) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in part 261, subpart D or exhibiting one or more characteristics in part 261, subpart C) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to 261.5(c) and (d). An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to 261.5(c) and (d), if it is determined to be hazardous waste; and

262.213(a)(3) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator status under paragraph (a)(2) of this section, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of hazardous waste (i.e., the conditionally exempt small quantity generator limits of 261.5), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

262.213(a)(4) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

262.213(b) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subpart, including, but not limited to:

262.213(b)(1) The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by 262.208; and

262.213(b)(2) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to 261.5(c) and (d).

#### **262.214. Laboratory management plans.**

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan must contain two parts with a total of nine elements identified in paragraphs (a) and (b) of this section. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in paragraph (a) of this section. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in paragraph (b) of this section.

262.214(a) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

262.214(a)(1) Describe procedures for container labeling in accordance with 262.206(a), including:

262.214(a)(1)(i) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material.”

262.214(a)(1)(ii) Identifying the manner in which information that is “associated with the container” will be imparted.



262.214(a)(2) Identify whether the eligible academic entity will comply with 262.208(a)(1) or (a)(2) for regularly scheduled removals of unwanted material from the laboratory.

262.214(b) In Part II of its Laboratory Management Plan, an eligible academic entity must:

262.214(b)(1) Describe its intended best practices for container labeling and management, including how the eligible academic entity will manage containers used for in-line collection of unwanted materials, such as with high performance liquid chromatographs and other laboratory equipment (see the required standards at 262.206).

262.214(b)(2) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at 262.207(a)).

262.214(b)(3) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at 262.207(d)(1)).

262.214(b)(4) Describe its intended best practices for removing unwanted material from the laboratory, including:

262.214(b)(4)(i) For regularly scheduled removals - Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at 262.208(a)(1) and (a)(2)).

262.214(b)(4)(ii) For removals when maximum volumes are exceeded:

262.214(b)(4)(ii)(A) Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at 262.208(d)).

262.214(b)(4)(ii)(B) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

262.214(b)(5) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at 262.11 and 262.209 through 262.212).

262.214(b)(6) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in 262.213, including:

262.214(b)(6)(i) Procedures for conducting laboratory clean-outs (see the required standards at 262.213(a)(1) through (3)); and

262.214(b)(6)(ii) Procedures for documenting laboratory clean-outs (see the required standards at 262.213(a)(4)).

262.214(b)(7) Describe its intended best practices for emergency prevention, including:

262.214(b)(7)(i) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and

262.214(b)(7)(ii) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; and

262.214(b)(7)(iii) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

262.214(b)(7)(iv) Procedures for the timely characterization of unknown chemicals.

262.214(c) An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

262.214(d) An eligible academic entity must review and revise its Laboratory Management Plan, as needed.

**262.215. Unwanted material that is not solid or hazardous waste.**

262.215(a) If an unwanted material does not meet the definition of solid waste in 261.2, it is no longer subject to this subpart or to the RCRA hazardous waste regulations.

262.215(b) If an unwanted material does not meet the definition of hazardous waste in 261.3, it is no longer subject to this subpart or to the RCRA hazardous waste regulations, but must be managed in compliance with any other applicable regulations and/or conditions.

**262.216. Non-laboratory hazardous waste generated at an eligible academic entity.**

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subpart; and

262.216 (a) Remains subject to the generator requirements of 262.11 and 262.34(c) for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of part 262, with respect to that hazardous waste; or

262.216(b) - Remains subject to the conditional exemption of 261.5(b) for conditionally exempt small quantity generators, with respect to that hazardous waste.

**2. Performance Track Rule**

**260.10 Definitions. Remove the following definition: “Performance Track and/or South Carolina Environmental Excellence Program member facility”**

~~“Performance Track and/or South Carolina Environmental Excellence Program member facility” means a facility that has been accepted by EPA and/or the Department for membership in the National Environmental Performance Track Program and/or the South Carolina Environmental Excellence Program and is still a member of the Program. The National Environmental Performance Track and/or the South Carolina Environmental Excellence Program is a voluntary, facility based, program for top environmental performers. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.~~

**262.34(j) Remove text of 262.34(j), (k), and (l) and reserve sections.**

262.34(j) [Reserved]

262.34(k) [Reserved]

262. 34 (l) [Reserved]

~~262.34 (j) A member of the Performance Track Program who is also a member of the South Carolina Environmental Excellence Program (SCEEP) who generates 1000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste onsite without a permit or interim status for an extended period of time, provided that: (6/06)~~

~~262.34(j)(1) The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer waste for transport) more than 200 miles from the generating facility; and~~

~~262.34(j)(2) The generator first notifies the Regional Administrator and the Director of the authorized State in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this section. Advance notice must include:~~

~~262.34(j)(2)(i) Name and EPA ID number of the facility, and specification of when facility will begin accumulation; and~~

~~262.34(j)(2)(ii) A description of the types of hazardous wastes that will be accumulated, and the units that will be used for such extended accumulation; and~~

~~262.34(j)(2)(iii) Statement that the facility has made all changes to its operations, procedures, including emergency preparedness procedures, and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and~~

~~262.34(j)(2)(iv) If generator intends to accumulate hazardous wastes on site for up to 270 days, a certification that a facility that is permitted (or under interim status) under part 270 to receive these wastes is not available w/in 200 miles of the generating facility; and~~

~~262.34(j)(3) The waste is managed in:~~

~~262.34(j)(3)(i) Containers, in accordance w/ 40 CFR 265 subpart I, AA, BB, and CC and 264.175; or~~

~~262.34(j)(3)(ii) Tanks, in accordance w/ 40 CFR 265 subpart J, AA, BB, and CC, except 265.197(c) and 265.200; or~~

~~262.34(j)(3)(iii) Drip pads, in accordance w/ 40 CFR part 265 subpart W; or~~

~~262.34(j)(3)(iv) Containment of buildings, in accordance w/ 40 CFR part 265 subpart DD; and~~

~~262.34(j)(4) The quantity of hazardous waste does not exceed 30,000 kg; and~~

~~262.34(j)(5) The generator maintains the following records at the facility for each unit used for extended accumulation:~~

~~262.34(j)(5)(i) Written description of procedures to ensure that each waste volume remains in unit no more than 180 days (or 270 days, as applicable), a description of waste generation and management practices at facility showing that they are consistent w/ the extended accumulation time limit, and documentation that the procedures are complied with; or~~

~~262.34(j)(5)(ii) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable); and~~

~~262.34(j)(6) Each container or tank used for extended accumulation is labeled or marked clearly w/ the words "Hazardous Waste," and for each container the date accumulation begins is marked and visible for inspection; and~~

~~262.34(j)(7) The generator complies w/ requirements for owners and operators in 40 CFR 265 C and D, w/ 265.16, and w/ 265.7(a)(5). This generator is exempt from all the requirements in 265 subparts G and H, except 265.111 and 265.114; and~~

~~262.34(j)(8) The generator has implemented pollution prevention practices that reduce amount of hazardous substances, pollutants, or contaminants released prior to recycling, treatment, or disposal; and~~

~~262.34(j)(9) The generator includes the following with its Performance Track Annual Performance Report, which must be submitted to the Regional Administrator and the State Director:~~

~~262.34(j)(9)(i) Information on total quantity of each hazardous waste generated at facility that has been managed the previous year; and~~

~~262.34(j)(9)(ii) Information for previous year on number of off site shipments of hazardous waste generated at facility, the types and locations of destination facilities, how wastes were managed, and what changes in on site or off site waste management practices occurred as a result of extended accumulation times or other pollution prevention provisions; and~~

~~262.34(j)(9)(iii) Information for the previous year on any hazardous waste spills or accidents, or during off site transport; and~~

~~262.34(j)(9)(iv) If generator intends to accumulate hazardous waste for up to 270 days, a certification that a facility is permitted (or under interim status) under part 270 to receive these wastes is not w/in 200 miles of generator; and~~

~~262.34 (k) If hazardous wastes must remain onsite at a Performance Track and SCEEP member facility for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances, an extension to the extended accumulation time period of up to 30 days may be granted at the discretion of the Department on a case by case basis.~~

~~262.34(1) If a generator who is a member of the Performance Track Program or the South Carolina Environmental Excellence Program withdraws from the Performance Track Program or the SCEEP, or if the Regional Administrator or the SCEEP terminates a generator's membership, the generator must return to compliance with all otherwise applicable hazardous waste regulations as soon as possible, but no later than six months after the date of withdrawal or termination.~~

**264.15(b)(4) - Revise section to read:**

264.15(b)(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. ~~except for Performance Track and/or South Carolina Environmental Excellence Program member facilities, that must inspect at least once each month, upon approval by the Department, as described in paragraph (b)(5) of this section.~~ At a minimum, the inspection schedule must include the items and frequencies called for in 264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 where applicable.

**Remove sub-item 264.15 (b)(5) in its entirety.**

~~264.15(b)(5) Performance Track and/or South Carolina Environmental Excellence Program member facilities that choose to reduce their inspection frequency must:~~

~~(i) Submit a request for a Class I permit modification with prior approval to the Department. The modification request must identify the facility as a member of the National Environmental Performance Track Program and/or South Carolina Environmental Excellence Program and identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as the facility is a Performance Track and/or South Carolina Environmental Excellence Program member facility, and that within seven calendar days of ceasing to be a Performance Track and/or South Carolina Environmental Excellence Program member, the facility will revert to the non-Performance Track and/or non South Carolina Environmental Excellence Program inspection frequency. Inspections must be conducted at least once each month.~~

~~(ii) Within 60 days, the Department will notify the Performance Track and/or South Carolina Environmental Excellence Program member facility, in writing, if the request is approved, denied, or if an extension to the 60 day deadline is needed. This notice must be placed in the facility's operating record. The Performance Track and/or South Carolina Environmental Excellence Program member facility should consider the application approved if the Department does not: deny the application; or notify the Performance Track and/or South Carolina Environmental Excellence Program member facility of an extension to the 60 day deadline. In these situations, the Performance Track and/or South Carolina Environmental Excellence Program member facility must adhere to the revised inspection schedule outlined in its request for a Class I permit modification and keep a copy of the application in the facility's operating record.~~

~~(iii) Any Performance Track and/or South Carolina Environmental Excellence Program member facility that discontinues their membership or is terminated from the program must immediately notify the Department of their change in status. The facility must place in its operating record a dated copy of this notification and revert back to the non-Performance Track and/or South Carolina Environmental Excellence Program inspection frequencies within seven calendar days. (6/08)~~

**264.174 Revise section to read:**

264.174 Inspections - At least weekly, the owner or operator must inspect areas where containers are stored. ~~except for Performance Track and/or South Carolina Environmental Excellence Program member~~

facilities, that may conduct inspections at least once each month, upon approval by the Department. To apply for reduced inspection frequencies, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures identified in 264.15(b)(5) of this part. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[Comment: See 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.]

**264.195(e) remove section in its entirety.**

~~264.195(e) Performance Track and/or South Carolina Environmental Excellence Program member facilities may inspect on a less frequent basis, upon approval by the Department, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 264.15(b)(5).~~

**264.1101(c)(4) Revise sub-item 264.1101(c)(4) to read:**

264.1101(c)(4) Inspect and record in the facility's operating record, at least once every seven days, ~~except for Performance Track and/or South Carolina Environmental Excellence Program member facilities that must inspect at least once each month, upon approval by the Director,~~ data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. ~~To apply for reduced inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 264.15(b)(5).~~

**265.15(b)(4) Revise to read:**

265.15(b)(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. ~~except for Performance Track and/or South Carolina Environmental Excellence Program member facilities, that must inspect at least once each month, upon approval by the Department, as described in paragraph (b)(5) of this section.~~ At a minimum, the inspection schedule must include the items and frequencies called for in 265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, where applicable.

**Delete 265.15(b)(5) as shown:**

~~265.15(b)(5) Performance Track and/or South Carolina Environmental Excellence Program member facilities that choose to reduce inspection frequencies must:~~

~~(i) Submit an application to the Department. The application must identify the facility as a member of the National Environmental Performance Track and/or South Carolina Environmental Excellence Program and identify the management units for reduced inspections and the proposed frequency of inspections. Inspections must be conducted at least once each month.~~

~~(ii) Within 60 days, the Department will notify the Performance Track and/or South Carolina Environmental Excellence Program member facility, in writing, if the application is approved, denied, or if an extension to the 60 day deadline is needed. This notice must be placed in the facility's~~

~~operating record. The Performance Track and/or South Carolina Environmental Excellence Program member facility should consider the application approved if the Department does not: (1) Deny the application; or (2) notify the Performance Track and/or South Carolina Environmental Excellence Program member facility of an extension to the 60 day deadline. In these situations, the Performance Track and/or South Carolina Environmental Excellence Program member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.~~

~~————— (iii) Any Performance Track and/or South Carolina Environmental Excellence Program member facility that discontinues its membership or is terminated from the program must immediately notify the Department of its change in status. The facility must place in its operating record a dated copy of this notification and revert back to the non-Performance Track and/or South Carolina Environmental Excellence Program inspection frequencies within seven calendar days.~~

**Revise 265.174 to read:**

265.174 At least weekly, the owner or operator must inspect areas where containers are stored, ~~except for Performance Track and/or South Carolina Environmental Excellence Program member facilities, that must conduct inspections at least once each month, upon approval by the Department. To apply for reduced inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 265.15(b)(5) of this part.~~ The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[Comment: See 265.171 for remedial action required if deterioration or leaks are detected.]

**Delete text of 265.195(d) and Reserve.**

265.195(d) [Reserved]

~~———— 265.195(d) Performance Track and/or South Carolina Environmental Excellence Program member facilities may inspect on a less frequent basis, upon approval by the Department, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 265.15(b)(5).~~

**265.201(e) Delete text of 265.201(e) and Reserve.**

265.201(e) [Reserved]

~~———— 265.201(e) Performance Track and/or South Carolina Environmental Excellence Program member facilities may inspect on a less frequent basis, upon approval by the Department, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 265.15(b)(5).~~

**Revise 265.1101(c)(4) to read:**

265.1101(c)(4) Inspect and record in the facility's operating record at least once every seven days, ~~except for Performance Track and/or South Carolina Environmental Excellence Program member facilities, that must inspect up to once each month, upon approval of the director,~~ data gathered from monitoring and

leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. ~~To apply for reduced inspection frequency, the Performance Track and/or South Carolina Environmental Excellence Program member facility must follow the procedures described in 265.15(b)(5).~~



**Attachment D**  
**STATE REGISTER NOTICE OF PROPOSED REGULATIONS EXCERPT**  
Document No. 4174  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**  
Statutory Authority: S.C. Code Ann. Section 44-56-10, *et seq.*

**R. 61-79 Hazardous Waste Management Regulations**

**Preamble:**

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 260 through 266, 268, 270, and 273 during the calendar year. The South Carolina Department of Health and Environmental Control (Department) proposes to adopt one Final Rule that was published in the period between July 1, 2008 and June 30, 2009, entitled: Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities (Academic Laboratories Generator Standards Rule). This rule was published by the EPA on December 1, 2008 at 73 FR 72912. This rule creates a new Subpart K within 40 CFR part 262. It establishes an alternative set of generator requirements applicable to laboratories owned by eligible academic entities that are flexible and protective of the environment while addressing the specific nature of hazardous waste generation and accumulation in eligible academic laboratories. The adoption of the Academic Laboratories Generator Standards Rule is optional to states. The Department intends to amend R.61-79 to maintain conformity with federal regulations by adopting the Academic Laboratories Generator Standards Rule.

The Department is proposing to establish new regulations for transfer facilities where manifested shipments of hazardous waste in containers are stored for 10 days or less. The Transfer Facility Rule being developed would establish requirements for storage of hazardous waste at transfer facilities, which would include notification and annual reporting, location standards, financial assurance, closure, contingency and emergency plans. The Department intends to clarify that transfer facilities that store waste greater than 10 days require a storage permit.

The EPA discontinued the National Environmental Performance Track Program (PT) in a Federal Register on May 14, 2009 at 74 FR 22741. The Department is proposing to amend R.61-79 to remove all references throughout the regulations to the EPA's PT Program, as well as the analogous state program, the South Carolina Environmental Excellence Program (SCEEP). These Programs provide regulatory incentives to facilities with good compliance records that are less stringent than Federal standards, such as fewer inspections, reduced paper work, and longer storage times. References to the SCEEP will also be removed because the State cannot be less stringent than Federal regulations. The SCEEP will continue as a recognition program but can no longer provide reduced regulatory incentives.

A Notice of Drafting initiating the statutory process to amend R.61-79 was published in the State Register on September 24, 2010. Notice was also published in its Department's monthly Regulation Development Update and on the Bureau of Land and Waste Management Public Notices internet site. See Discussion of changes below and the Statement of Need and Reasonableness herein.

[The Table of Revisions is submitted as Attachment B, and is omitted here to conserve space in the Board agenda item.]

**ATTACHMENT E**  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: 1976 Code Section 44-56-30 et seq.

**R.61-79 HAZARDOUS WASTE MANAGEMENT REGULATIONS**

**Notice of Drafting:**

The South Carolina Department of Health and Environmental Control (Department) proposes to amend R.61-79, Hazardous Waste Management Regulations. This Notice of Drafting of September 24, 2010 cancels, replaces and supercedes the former Notice of Drafting published in the State Register on May 28, 2010. Interested persons are invited to present their views in writing to Richard Haynes, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, October 25, 2010 the close of the drafting comment period.

**Synopsis:**

1. The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 260, 261, 262, 263, 264, 265, 266, 268, 270, and 273 during the calendar year. Recent federal amendments affect one Final Rule South Carolina intends to adopt that was published in the period between July 1, 2008 and June 30, 2009. The Rule for Academic Laboratories Generator Standards establishes a new Subpart K within 40 CFR part 262, which establishes an alternative set of generator requirements applicable to laboratories owned by eligible academic entities that are flexible and protective, and address the specific nature of hazardous waste generation and accumulation in these laboratories. This rule was published by the USEPA in the *Federal Register* December 1, 2008 at 73 FR 72912. The adoption of this Rule is optional to States. The Department intends to amend R.61-79 to maintain conformity with federal regulations by adopting the Academic Laboratories Rule.
2. The State intends to establish regulations for transfer facilities where manifested shipments of hazardous waste are stored for 10 days or less. The Transfer Facility Rule being developed would establish requirements for hazardous waste storage at a transfer facility as well as establish financial assurance to protect the environment and the State in the event of a spill or accident that would have an environmental impact. The State intends to clarify that transfer facilities that store waste greater than 10 days require a storage permit.
3. The USEPA discontinued the National Environmental Performance Track (PT) Program in a Federal Register on May 14, 2009 at 74 FR 22741. The Department is proposing to amend R.61-79 to remove all references throughout the regulations to the USEPA's PT Program, as well as the analogous state program, the South Carolina Environmental Excellence Program (SCEEP). These Programs provide regulatory incentives to facilities with good compliance records that are less stringent than Federal standards, such as fewer inspections, reduced paper work, and longer storage times. The references to the SCEEP will be removed because the State cannot be less stringent than Federal regulations.

Legislative review of these amendments will be required.

**ATTACHMENT F**  
**SUMMARY OF PUBLIC COMMENTS AND DEPARTMENT RESPONSES**  
 AMENDMENT OF R.61-79  
 State Register Document No. 4174  
 March 10, 2011

This package of proposed rules included three rules, (1) the EPA initiated Academic Laboratories Rule providing academic labs with the choice of two sets of rules under RCRA, the 262 Subpart K designed with the unique problems facing academic laboratories in mind when it was developed; (2) the state initiated transfer facility rule; and finally (3) the withdrawal by EPA of the Performance Track Rule.

Section Citation	Commentor	Public Comment	Department Response
*(1) Academic Laboratories Rule 261.5(c)(6) & (7) and 262 Subpart K	Charleston Southern University	The letter strongly encouraged the adoption of the Academic Lab rule and the addition of 262 Subpart K to the Hazardous Waste Management regulation to provide a flexible alternative to the unique problems faced by academic labs.	The Department moved forward with proposing the adoption of the Academic Lab rule into the regulation
	SC Independent Colleges & Universities	This is a consortium of independent Colleges and Universities. They also strongly supported the adoption of the Academic Lab rule.	See Department Response above.
** (2) Transfer Facility Rule - a state initiated rule that would be more stringent than federal regulation. All the changes proposed were at 262.12 and 263.13.	Letters in opposition received from: 1. SC Chamber of Commerce 2. Crandall Corp. of Lexington, SC 3. Giant Resource Recovery - Sumter, Inc. 4. Norfolk Southern Corporation, Norfolk, VA 5. Freehold Cartage, Inc. Freehold, NJ	The Department received a very strong negative response to this rule. The Chamber of Commerce has a policy that any state regulation more stringent than federal regulation is opposed unless there is very compelling reasons for the inclusion into state regulation. Other comments included: <ul style="list-style-type: none"> <li>• a concern that the new requirements were too vague,</li> <li>• the rule constitutes a new permitting program,</li> <li>• inadequate justification for</li> </ul>	The comments were so strongly opposed, the Department withdrew the proposal in its entirety at this time. The Department still feels this is a part of handling hazardous waste that has the potential for environmental harm that has no oversight nor is there any siting requirements or financial assurance requirements that adequately address this issue. However, the Department accepts that more research and a better developed rationale is needed before this rule will be

		<p>showing the necessity of greater regulation</p> <ul style="list-style-type: none"> <li>• no real problems were documented regarding the operations of existing facilities</li> <li>• financial stress upon both the Department and the regulated community were not realistically assessed without a</li> <li>• the regulation and supervision of transfer facilities is managed under different parts of the regulation and would therefore, it would be redundant to add this rule to the regulation.</li> </ul>	<p>proposed again. Therefore, it was decided to completely withdraw this state initiative at this time.</p>
<p>(3) Withdrawal by EPA of the federal Performance Track Rule and the resulting withdrawal of all references to the state program, the Environmental Excellence program Sections affected include 260.10, 262.34(j)-(l), 264.14(b)(4) revised, all of 264.15(b)(5), 264.195(e) and other sections where inspections and paperwork requirements had exceptions provided for the Performance Track Rule.</p>	<p>No comments were made regarding this withdrawal.</p>		

\* Letter sent prior to the Notice of Drafting encouraging SC DHEC to adopt the proposed rule.

\*\* Comments received as a result of the Staff Informational Forum and during the public comment period pursuant to the publication of a Notice of Proposed Regulation & Opportunity for Public Comment (Doc. 4174) in the State Register on December 24, 2010.